

Honorable Michelle H. Burns, U.S. Magistrate Judge  
*Printed name and title*

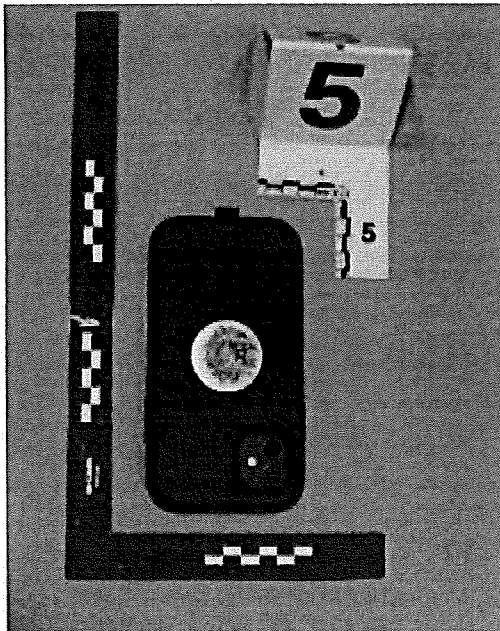
| AO 93 (Rev. 01/09) Search and Seizure Warrant (Page 2)  |                                 |  |
|---|---------------------------------|--|
| RETURN  |                                 |  |
| Case No.:   | Date and Time Warrant Executed: | Copy of warrant and inventory left with: |
| Inventory Made in the Presence of:  |                                 |  |
| Inventory of the property taken and name of any person(s) seized:   |                                 |  |
| CERTIFICATION   |                                 |  |
| I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge. |                                 |  |
| Date:   | Executing officer's signature   |  |
|   | Printed name and title          |  |

**ATTACHMENT A (1)**

**Property to Be Searched**

This warrant applies to the following electronic device recovered from the search of Reggie Lewis's vehicle. The device was initially recovered by the Federal Bureau of Investigation and stored at the Phoenix Field Office of the FBI at 21711 N 7<sup>th</sup> Street, Phoenix, AZ 85024:

(1) Black iPhone with Otterbox case and charging station

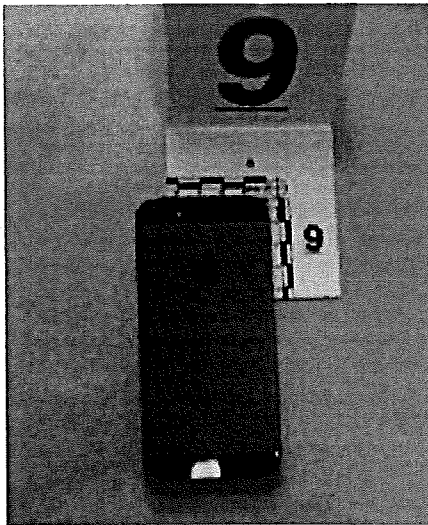


**ATTACHMENT A (2)**

**Property to Be Searched**

This warrant applies to the following electronic device recovered from the search of Reggie Lewis's vehicle. The device was initially recovered by the Federal Bureau of Investigation and stored at the Phoenix Field Office of the FBI at 21711 N 7<sup>th</sup> Street, Phoenix, AZ 85024:

(1) Black iPhone Model A1428 IMEI 013424001046454



**ATTACHMENT B**

All records and communications related to the violation of Title 18, United States Code §§1153 and 1111, Murder:

- a. Telephone numbers of incoming/outgoing calls stored in the call registry;
- b. Telephone numbers and email addresses and corresponding names to those numbers and addresses stored in the address book;
- c. Any incoming/outgoing text messages and instant messages;
- d. Telephone subscriber information;
- e. Any other electronic information in the stored memory and/or accessed by the active electronic features of the digital or cellular telephone, including but not limited to e-mail, voicemail, and photos; and,
- f. Global Positioning System (GPS) coordinates or any other location data stored within the device.

## UNITED STATES DISTRICT COURT

for the  
District of Arizona

## In the Matter of the Search of

(Briefly Describe the property to be searched or identify the person by name and address)

Black iPhone with Otterbox case and charging station and a Black iPhone Model A1428 with IMEI 013424001046454, seized on October 20, 2021 from Reggie Lewis' vehicle, which are currently stored at the FBI Phoenix Office, 21711 N. 7<sup>th</sup> Street, Phoenix, AZ 85024.

Case No.

22-004MB

## APPLICATION AND AFFIDAVIT FOR A SEARCH WARRANT

I, SA John G. Mikel, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

As further described in Attachment A.

Located in the District of Arizona, there is now concealed (*identify the person or describe the property to be seized*):

As set forth in Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

| Code/Section    | Offense Description |
|-----------------|---------------------|
| 18 U.S.C. §1111 | Murder              |

The application is based on these facts:

As set forth in Attachment C, incorporated herein by reference.

☒ Continued on the attached sheet.

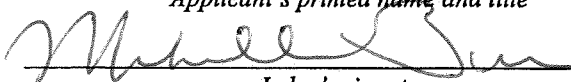
☐ Delayed notice of \_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Reviewed by AUSA Raynette Logan *RP*  
 Sworn Telephonically

  
 Applicant's Signature

John G. Mikel, SA, FBI  
 Applicant's printed name and title

Date issued: January 4, 2022

  
 Judge's signature

City and State: Phoenix, Arizona

Hon. Michelle H. Burns, U.S. Magistrate Judge  
 Printed name and title

**ATTACHMENT C**

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR  
A SEARCH WARRANT**

I, John G. Mikel, a Special Agent with the Federal Bureau of Investigation ("FBI"), being duly sworn, depose and state as follows:

**INTRODUCTION**

The facts of this case, as more fully detailed herein, are that on or about May 15, 2021 within the confines of the Gila River Indian Community ("GRIC"), within the District of Arizona, REGGIE LEWIS, SR. (hereinafter R.L.Sr.) killed D.W., thereby violating federal law by committing 1<sup>st</sup> Degree Murder, in violation of Title 18, United States Code, §§ 1153 and 1111. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property—an electronic device—which is currently in law enforcement possession, and the extraction from that property of electronically stored information described in Attachment B.

**PRELIMINARY BACKGROUND INFORMATION**

1. Your affiant is a graduate of the FBI Academy in Quantico, VA. Your affiant has been employed with the FBI since November 2009. Your affiant is currently assigned to the FBI Phoenix Division and has primary investigative responsibility in Indian Country matters, to include, violent crimes, such as homicide, sexual assaults, and aggravated assaults.

2. I have been trained in various aspects of law enforcement, including searching and seizing of digital media to include telephone and social media content. In addition, I have been involved in multiple investigations in which digital media, including telephones and social media accounts, have been seized, searched, and forensically examined.



1        3. The facts in this affidavit come from my personal observations, my training and  
2 experience, and information obtained from other agents, officers, investigators and witnesses.  
3 This affidavit is intended to show merely there is sufficient probable cause for the requested  
4 warrant and does not set forth all of my knowledge about this matter. I have set forth only the  
5 facts I believe are necessary to establish probable cause to believe evidence of a violation of  
6 Title 18, United States Code, §§ 1153 and 1111, is located in the SUBJECT CELLULAR  
7 TELEPHONES, as described in Attachment A, for evidence of this crime as described in  
8 Attachment B. This Court has jurisdiction over these offenses under 18 U.S.C. § 1153 because  
9 the below-described events occurred on the GRIC, a federally recognized tribe, and REGGIE  
10 LEWIS, SR. is an enrolled member of GRIC.

11  
12  
13                                **DETAILS OF THE INVESTIGATION**  
14

15        4. On May 15, 2021, at approximately 1625 hours, Gila River Police Department  
16 (GRPD) Sergeant Jeff Faulkner contacted GRPD Detective Jose Vargas and requested Det.  
17 Vargas respond to the area of SR 87 and Levee, Sacaton, AZ (within the exterior boundaries of  
18 the Gila River Indian Community) in reference to a 42-year-old male shooting victim.  
19 Sergeant Faulkner advised Det. Vargas that the shooting victim (identified as D.W.) had  
20 sustained a gunshot wound to the head and was pronounced deceased on scene. Witnesses  
21 driving past the incident observed a sedan fleeing from the intersection immediately after the  
22 shooting.  
23  
24

25        5. A witness contacted the police department and stated he/she observed a white  
26 vehicle, possibly a Dodge Charger, flee the area immediately after the shooting occurred. An  
27 individual identified as "J.S." requested to speak with police in person. On May 15, 2021,  
28



1 Detective Vargas met with J.S. who said that he was driving by the area of S.R 87 and Levee  
2 Road traveling westbound when J.S. observed one female and three males standing on the side  
3 of the road near a white four-door sedan. One male subject appeared to be arguing with  
4 another male subject. J.S. described one of the two males arguing as flailing his arms as if he  
5 was yelling at the other male subject. J.S then witnessed the male who appeared to be arguing  
6 extend his arm towards the other male subject. The second male then dropped to the ground.  
7 J.S. described what happened as an "execution". J.S then immediately searched his vehicle for  
8 his cellular phone to call the police.  
9  
10

11 6. On May 15, 2021, Detective K. Weeden spoke with A.S. A.S. told Detective  
12 Weeden she witnessed three males and one female standing on the side of the road near a white  
13 four (4) door sedan. One male then shot a second male, and the second male fell to the ground.  
14 A.S. looked through her review mirror and observed the remaining two males and single  
15 female enter the white four door sedan and depart the area west bound on Levee Road.  
16

17 7. Detective Vargas returned to the incident location and conducted a walkthrough of  
18 the scene. Detective Vargas approached the deceased male, D.W., from the north east walking  
19 south West toward the victim's head. Detective Vargas observed the victim to be lying on his  
20 back with his head toward SR 87 and his feet toward Levee Road (west). Detective Vargas  
21 observed the deceased male to have a gunshot wound to the head. The victim was wearing a  
22 "natives with attitude" t-shirt and navy blue Dickies shorts. The victim had on black socks and  
23 black shoes.  
24  
25

26 8. On May 15, 2021, Federal Bureau of Investigation (FBI) Special Agent (SA) Lisa  
27 O'Connor and Detective Vargas conducted an interview with E.A. and J.A., near the  
28

1 intersection of Pear Road and Levee Road. E.A. advised he was traveling westbound on S.R.  
2 87 near Levee Road at approximately 1600 hours when he observed a white four (4) door  
3 sedan parked on the side of the road west of S.R 87, on Levee Road. E.A. observed three  
4 males and one female standing outside the vehicle on the dirt shoulder. Two of the male  
5 subjects appeared to be arguing with each other. One of the male subjects struck the other  
6 male subject in the face. The victim of the strike to the face staggered but didn't fight back.  
7 E.A. didn't know what happened next because they drove past the scene.  
8

9  
10 9. SA O'Connor and Detective Vargas then spoke to J.A. separately from E.A., who  
11 said that he was in a vehicle traveling west bound on S.R 87 near Levee Road when he  
12 observed the white four (4) door sedan parked on the side of Levee Road. J.A observed one  
13 female and three males standing outside of the white four (4) door sedan. J.A witnessed one  
14 male subject punch another male subject. J.A. advised he didn't see anything else and could  
15 not identify who the subjects were.  
16

17 10. While speaking to J.A. and E.A., several family members of the victim arrived on  
18 scene and began asking about the identity of the decedent. Sergeant Jeffery Faulkner also  
19 arrived on scene and initially spoke to the family.  
20

21 11. During interviews with the family, Detective Vargas spoke with a female identified  
22 as D.J. D.J. advised she last saw the victim, D.W., earlier in the day while at her father's  
23 house. She identified D.W., REGGIE LEWIS, Sr., a female identified as A.J., and a male  
24 identified as R.A. D.J. said D.W., REGGIE LEWIS, Sr., A.J. and R.A. arrived at her father's  
25 in a newer white four (4) door sedan between the hours of approximately 4:00 P.M and 5:00  
26 P.M. D.J. said she was talking to R.A. when the victim D.W. got out of the car. After D.J.  
27  
28

1 saw D.W., she started to talk to him for a bit. Detective Vargas confirmed with D.J. that  
2 REGGIE LEWIS, Sr., D.W., R.A. and A.J. were all in the white four door sedan. D.J. said yes  
3 and advised they were all standing outside the car. D.J. explained A.J. was currently dating  
4 REGGIE LEWIS, Sr. D.J. stated R.A. was wearing a black shirt and blue jeans, A.J. was  
5 wearing jean capris and a black shirt, REGGIE LEWIS, Sr., was wearing a dark blue shirt and  
6 black jeans, and D.W. was wearing a black shirt and black shorts. D.J. advised she only visited  
7 with REGGIE LEWIS, Sr., R.A., A.J., and D.W. for approximately ten minutes. D.J.  
8 described the vehicle they arrived in as a white four door sedan with black rims. D.J. advised  
9 it appeared to be a newer model and was nice looking.  
10  
11

12 12. On May 17, 2021, Detective Vargas spoke to A.C., who stated she witnessed the  
13 shooting. A.C. said she was traveling westbound on S.R 87 at approximately 3:20 P.M. when  
14 she observed a cream-colored four door sedan parked on the side of the road. A.C. said the  
15 vehicle looked like a 2010 or possibly older cream-colored Cadillac CTS or a Chrysler 300.  
16 A.C. later advised the vehicle may have also been a 2010 – 2015. The vehicle had tinted  
17 windows. A.C. observed four subjects outside the vehicle. A.C. identified all subjects as  
18 being Native American. A.C. described one female as having blue colored shorts and her hair  
19 was in a “bun”. A.C. described two males as wearing all black and having shaved heads. A.C.  
20 described the victim as wearing all black, and he also had a shaved head. A.C. advised she  
21 witnessed the female point something at the victim, and then he fell down. A.C. said she  
22 didn’t know what happened at first, but then she noticed the victim wasn’t moving and  
23 everyone else got back in the vehicle and the vehicle fled west bound. A.C. said all four  
24 subjects were standing around at first, and then A.C. observed the female’s arm extend towards  
25  
26  
27  
28

1 the victim. A.C. didn't see a gun, but she saw the victim drop to the ground. A.C. explained  
2 one male was standing near the rear driver side of the vehicle and another male was standing  
3 near passenger side. The female was standing near the trunk area of the vehicle. A.C. stated  
4 the female was standing approximately two to three feet away from the victim. The female  
5 was closest to the victim, and she was standing in front of him. A.C. said the victim was  
6 standing next to a ditch back where it "curves in". A.C. stated that she did not see any muzzle  
7 flash. A.C. said she didn't even hear any gunfire; she only saw the victim fall. A.C. explained  
8 she was too far away to see detail. A.C. said she saw the "back view" of the incident.  
9 Detective Vargas asked A.C. what happened after the victim fell to the ground. A.C. said the  
10 remaining three subjects quickly got back into the vehicle. A.C. advised the female got into  
11 the rear passenger side door, and the vehicle sped off. It should be noted that Det. Vargas  
12 describes REGGIE LEWIS, SR., as having a ponytail at the time of the incident.  
13  
14  
15

16 13. On May 19, 2021, Detective Vargas spoke with C.M. at a residence in the Sacaton  
17 area. C.M. stated she knew D.W. as "Kooter". C.M. advised REGGIE LEWIS, Sr., A.J., R.A.,  
18 and D.W. came to the residence between the hours of 3:00 P.M. and 4:00 P.M. C.M. identified  
19 R.A. as her boyfriend. After C.M. came out of the house, REGGIE LEWIS, Sr., asked C.M.  
20 for a hug. C.M. and REGGIE LEWIS, Sr., started to have a conversation about his and R.A.'s  
21 friendship. C.M. said she didn't notice D.W. until she saw him in the back seat of the vehicle.  
22 When D.J. (C.M.'s daughter) came out, D.W. exited the vehicle and went to talk to D.J. D.W.  
23 and D.J. had a friendly conversation, and then C.M. said hello to D.W. after she noticed him  
24 exit the car. A.J. was talking outside the vehicle and REGGIE LEWIS, Sr., D.W., and R.A.,  
25 were ready to leave. They started joking saying they were going to leave A.J. because she was  
26  
27  
28

1 taking too long. C.M. explained there were no arguments, and everyone was getting along.  
2 A.J. got into the vehicle, and all four individuals who arrived, left in the car. C.M. advised  
3 REGGIE LEWIS, Sr., A.J., R.A. and D.W. were only at the residence for approximately 15  
4 minutes. C.M. described the vehicle as a white car that belonged to REGGIE LEWIS, Sr.  
5 C.M. said she didn't know the make or model.  
6

7 14. After leaving the residence, Detective Vargas received a phone call from a male  
8 who identified himself as R.A. R.A. agreed to meet with police at his workplace. Detective  
9 Vargas and Sergeant Orlando Ramirez met with R.A. On the day of the incident, R.A. said he  
10 went to see C.M. and D.J. D.W. got out of the vehicle and gave D.J. a hug. R.A. was with  
11 REGGIE LEWIS, Sr., D.W. and A.J. R.A. said he was drinking with these people Friday night  
12 into Saturday. On Friday, REGGIE LEWIS, Sr., picked up R.A., and they went into Chandler.  
13 From Chandler, they went to REGGIE LEWIS, Sr.'s house. After being at REGGIE LEWIS,  
14 Sr.'s house, R.A. was dropped off at his house. R.A. explained he started drinking with  
15 REGGIE LEWIS, Sr., A.J. and D.W. at his house on Saturday. R.A. went "cruising" with  
16 REGGIE LEWIS, Sr., A.J. and D.W. R.A. asked REGGIE LEWIS, Sr., to stop by where C.M.  
17 was at so R.A. could give C.M. money. R.A. said he couldn't remember what happened after  
18 that.  
19  
20  
21

22 15. Initially, R.A. stated that he couldn't remember several details regarding the incident.  
23 After discussing the seriousness of the investigation, R.A. was willing to provide more detail  
24 about what he witnessed. R.A. said they were driving around in REGGIE LEWIS, Sr.'s car.  
25 R.A. described the car as a tan colored four door sedan with tinted windows. R.A. said while  
26 REGGIE LEWIS, Sr., A.J., D.W. and he were driving in the car nobody was talking. R.A.  
27  
28

1 described the music as being loud, and they would need to yell to communicate. R.A. said  
2 they stopped on the side of the road, and he saw REGGIE LEWIS, Sr., and D.W. get out of the  
3 car. When REGGIE LEWIS, Sr., got out of the car, he opened D.W.'s door, and they both got  
4 out. R.A. heard REGGIE LEWIS, Sr., tell D.W. something when they exited the car, but he  
5 couldn't provide detail because of the music volume. R.A. wasn't sure why they stopped or  
6 why REGGIE LEWIS, Sr., and D.W. got out of the car. R.A. said REGGIE LEWIS, Sr., was  
7 sitting in the front seat passenger seat, D.W. was sitting in the back passenger seat behind the  
8 front passenger, A.J. was driving, and R.A. was sitting in the back seat behind the driver. R.A.  
9 said he observed REGGIE LEWIS, Sr., and D.W. start to get in a fight. R.A. got out of the car  
10 to see what was going on. When R.A. got out of the car he went back towards the rear of the  
11 vehicle. When R.A. got to the trunk area of the vehicle he looked up and saw REGGIE  
12 LEWIS, Sr., and D.W. standing approximately 10 to 20 yards away from the vehicle in the dirt  
13 area. When R.A. looked up at REGGIE LEWIS, Sr., and D.W., R.A. saw REGGIE LEWIS,  
14 Sr., with his arm extended at D.W. R.A. heard a single gunshot, and D.W. immediately fell to  
15 the ground. REGGIE LEWIS, Sr.'s arm was still extended toward where D.W. was standing at  
16 this point.

17  
18  
19  
20  
21 16. REGGIE LEWIS, Sr., turned and appeared to be tucking in his shirt as he walked  
22 back toward the vehicle, but it was his belief REGGIE LEWIS, Sr., was tucking his gun in his  
23 waist band. R.A. did not see REGGIE LEWIS, Sr., with the gun in his hand, but the gunshot  
24 came from where REGGIE LEWIS, Sr., and D.W. were standing. R.A. said he panicked once  
25 he heard the shot and saw D.W. fall to the ground. R.A. said no one else was standing near  
26 REGGIE LEWIS, Sr., and D.W. when he heard the gunshot. R.A. said A.J. was somewhere  
27  
28



1 near the car. R.A. said he kept saying "what the fuck" several times. REGGIE LEWIS, Sr.,  
2 told him to shut up several times and to get into the car. R.A. said A.J. got into the driver seat,  
3 REGGIE LEWIS, Sr., got into the front passenger seat, and he got into the back seat. A.J.  
4 drove away, and R.A. said he told A.J. to take him home. R.A. was afraid REGGIE LEWIS,  
5 Sr., would hurt him next. R.A. advised REGGIE LEWIS, Sr., told A.J. to take him home. A.J.  
6 was screaming and/or crying while she was driving. REGGIE LEWIS, Sr., just kept saying to  
7 shut up. A.J. took R.A. home, and REGGIE LEWIS, Sr., and A.J. drove off.  
8

9  
10 17. R.A. said he hasn't heard from REGGIE LEWIS, Sr., since the incident. R.A. didn't  
11 know why REGGIE LEWIS, Sr., shot D.W., and R.A. didn't know of any problems. R.A. said  
12 he has only heard from REGGIE LEWIS, Sr., via text since the shooting happened. R.A. said  
13 REGGIE LEWIS, Sr., told him he was on vacation and told R.A. what to do at work. R.A.  
14 advised REGGIE LEWIS, Sr., never talked about what happened. R.A. provided Detective  
15 Vargas with REGGIE LEWIS, Sr.'s, cellular phone number. The cellular phone number  
16 provided by R.A. for REGGIE LEWIS, Sr., was 520-371-3822.  
17

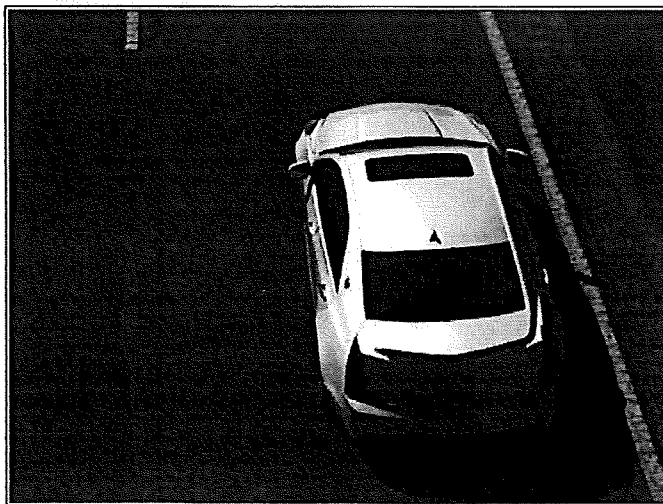
18  
19 18. On May 25, 2021, Detective Vargas spoke with a female via cellular phone who  
20 identified herself as M.V. M.V. stated she was A.J.'s sister. M.V. advised A.J. quit her job  
21 around the day of the shooting. M.V. wasn't sure exactly when A.J. quit her job, but she did  
22 know A.J. told her employer it was for personal reasons. M.V. said on May 24, 2021, she sent  
23 text messages to A.J.'s cellular phone. A.J. would only tell M.V. that she was on vacation with  
24 REGGIE LEWIS, Sr., and she didn't know when she would be back. A.J. wouldn't answer her  
25 phone and would only send text messages. A.J. wouldn't tell M.V. or any other family where  
26 she was located.  
27  
28



19. Through a check of Motor Vehicle Division (MVD) registration, it was determined that REGGIE LEWIS, Sr., was the registered owner of a 2014 white Cadillac ATS four (4) door sedan, bearing Arizona (AZ) License Plate CJM6679. As a result, the following AZ License Plate was entered into license plate recognition systems by an Arizona High Intensity Drug Trafficking Areas (AZ HIDTA) analyst. Detective Vargas received the results, which identified the aforementioned vehicle traveling northbound on AZ Kingman US-93 Highway on May 16, 2021. The following screenshot was provided:

***Sighting Detail Information***

|                                     |  |
|-------------------------------------|--|
| Plate : CJM6679                     | Plate State : Arizona                    |
| Location : DEA FCU AZ Kingman US-93 | Highway name : DMS379 US-93 S Northbound |
| Time : 2021-05-16 15:02:02 MST      | Direction : Northbound                   |
| Reader ID : Elsig 1074              | Coordinate : 35.19962,-114.07893         |



20. On May 20, 2021, AZ HIDTA analyst C. Chaney confirmed that REGGIE LEWIS, Sr., is associated with the phone number (520)371-3822. R.A. was also able to provide this same phone number to Det. Vargas during his interview.

1        21. On June 16, 2021, a tracking warrant and Pen Register / Trap and Trace for this  
2 phone number was signed and subsequently served to Verizon. Verizon responded via email  
3 on June 17, 2021, stating that the order could not be served as the phone number was changed  
4 on 5/25/2021. Included in that email was subscriber information indicating that REGGIE  
5 LEWIS SR was the owner of account number 225870654-1.  
6

7        22. The GRIC law office determined there was probable cause for a Felony Arrest  
8 Warrant for the charge of Homicide against REGGIE LEWIS SR. This warrant and a “be on  
9 the lookout” (BOLO) notification for the vehicle described above were placed into the systems  
10 for the National Crime Information Center (NCIC) and Arizona Crime Information Center  
11 (ACIC) in June of 2021.  
12

13        23. On August 26, 2021, the vehicle was located by El Dorado County Sheriff’s  
14 Deputies. After a pursuit from California into Nevada, REGGIE LEWIS, SR. was taken into  
15 custody and his vehicle impounded. LEWIS and the vehicle were transported back to the  
16 Phoenix area on September 22, 2021. The vehicle was impounded in the FBI Field Office  
17 Parking Area.  
18  
19

20        24. On October 20, 2021, members of the FBI Evidence Response Team (ERT)  
21 conducted a search of the vehicle as authorized by a Federal Search Warrant signed in the  
22 District of Arizona. During this search, ERT members located two cellphones, identified as a  
23 Black iPhone with Otterbox case and charging station, as described in Attachment A(1), and a  
24 Black iPhone Model A1428 with IMEI 013424001046454, as described in Attachment A(2)  
25 (SUBJECT CELLULAR TELEPHONES).  
26  
27  
28

26. The SUBJECT CELLULAR TELEPHONES are currently in storage in the Evidence Control Room at 21711 N. 7<sup>th</sup> Street, Phoenix, Arizona 85024. In my training and experience, I know that the SUBJECT CELLULAR TELEPHONES have been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the SUBJECT CELLULAR TELEPHONES first came into the possession of the FBI.

27. Based upon the facts contained in this Affidavit, your Affiant submits there is probable cause to believe that the items listed in Attachment B will be found in the contents of the SUBJECT CELLULAR TELEPHONES.

12

**DIGITAL EVIDENCE STORED WITHIN A CELLULAR TELEPHONE**

29. As described in Attachment B, this application seeks permission to search for records and information that might be found in the contents of the SUBJECT CELLULAR TELEPHONES. Thus, the warrant applied for would authorize the copying of electronically stored information under Rule 41(e)(2)(B).

30. *Probable cause.* Your Affiant submits that there is probable cause to believe records and information relevant to the criminal violations set forth in this Affidavit will be stored on the SUBJECT CELLULAR TELEPHONE for at least the following reasons:

a. Your Affiant knows that when an individual uses a cellular telephone, the cellular telephone may serve both as an instrumentality for committing the crime and also as a storage medium for evidence of the crime. The cellular telephone is an instrumentality of the crime because it is used as a means of committing the criminal offense. The cellular telephone is also likely to be a storage medium for evidence of crime. From my training and experience, your Affiant believes that a cellular telephone used to commit a crime of this type may contain: data that is evidence of how the cellular telephone was used; data that was sent or received; notes as to how the criminal conduct was achieved; records of Internet discussions about the crime; and other records that indicate the nature of the offense.

b. Based on my knowledge, training, and experience, your Affiant knows that cellular telephones contain electronically stored data, including, but not limited to, records related to communications made to or from the cellular telephone, such as the associated telephone numbers or account identifiers, the dates and times of the communications, and the content of stored text messages, e-mails, and other communications; names and telephone

1 numbers stored in electronic “address books;” photographs, videos, and audio files; stored  
2 dates, appointments, and other information on personal calendars; notes, documents, or text  
3 files; information that has been accessed and downloaded from the Internet; and global  
4 positioning system (“GPS”) information.  
5

6 c. Based on my knowledge, training, and experience, your Affiant knows that  
7 electronic files or remnants of such files can be recovered months or even years after they have  
8 been downloaded onto a cellular telephone, deleted, or viewed via the Internet. Electronic files  
9 downloaded to a cellular telephone can be stored for years at little or no cost. Even when files  
10 have been deleted, they can be recovered months or years later using forensic tools. This is so  
11 because when a person “deletes” a file on a cellular telephone, the data contained in the file  
12 does not actually disappear; rather, that data remains on the cellular telephone until it is  
13 overwritten by new data.  
14  
15

16 d. Therefore, deleted files, or remnants of deleted files, may reside in free space or  
17 slack space—that is, in space on the cellular telephone that is not currently being used by an  
18 active file—for long periods of time before they are overwritten. In addition, a cellular  
19 telephone’s operating system may also keep a record of deleted data in a “swap” or “recovery”  
20 file.  
21

22 31. *Forensic evidence.* As further described in Attachment B, this application seeks  
23 permission to locate not only electronic files that might serve as direct evidence of the crimes  
24 described on the warrant, but also for forensic electronic evidence that establishes how the  
25 cellular telephone was used, the purpose of the use, who used it, and when. There is probable  
26  
27  
28

1 cause to believe that this forensic electronic evidence will be found in the contents of the  
2 SUBJECT CELLULAR TELEPHONES because:

3       a. Data in a cellular telephone can provide evidence of a file that was once in the  
4 contents of the cellular telephone but has since been deleted or edited, or of a deleted portion of  
5 a file (such as a paragraph that has been deleted from a word processing file).  
6

7       b. As explained herein, information stored within a cellular telephone may provide  
8 crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under  
9 investigation, thus enabling the United States to establish and prove each element or  
10 alternatively, to exclude the innocent from further suspicion. In my training and experience,  
11 information stored within electronic storage medium (e.g., registry information,  
12 communications, images and movies, transactional information, records of session times and  
13 durations, internet history, and anti-virus, spyware, and malware detection programs) can  
14 indicate who has used or controlled the cellular telephone. This “user attribution” evidence is  
15 analogous to the search for “indicia of occupancy” while executing a search warrant at a  
16 residence. The existence or absence of anti-virus, spyware, and malware detection programs  
17 may indicate whether the cellular telephone was remotely accessed, thus inculcating or  
18 exculpating the owner. Further, activity on a cellular telephone can indicate how and when the  
19 cellular telephone was accessed or used. For example, as described herein, cellular telephones  
20 can contain information that log: session times and durations, activity associated with user  
21 accounts, electronic storage media that connected with the cellular telephone, and the IP  
22 addresses through which the cellular telephone accessed networks and the internet. Such  
23 information allows investigators to understand the chronological context of cellular telephone  
24  
25  
26  
27  
28



1 access, use, and events relating to the crime under investigation. Additionally, some  
2 information stored within a cellular telephone may provide crucial evidence relating to the  
3 physical location of other evidence and the suspect. For example, images stored on a cellular  
4 telephone may both show a particular location and have geolocation information incorporated  
5 into its file data. Such file data typically also contains information indicating when the file or  
6 image was created. The geographic and timeline information described herein may either  
7 inculcate or exculpate the user of the cellular telephone. Last, information stored within a  
8 cellular telephone may provide relevant insight into the user's state of mind as it relates to the  
9 offense under investigation. For example, information within a computer may indicate the  
10 owner's motive and intent to commit a crime (e.g., internet searches indicating criminal  
11 planning), or consciousness of guilt (e.g., running a "wiping" program to destroy evidence on  
12 the computer or password protecting/encrypting such evidence in an effort to conceal it from  
13 law enforcement).

14  
15  
16  
17 c. A person with appropriate familiarity with how a cellular telephone works can,  
18 after examining this forensic evidence in its proper context, draw conclusions about how the  
19 cellular telephone was used, the purpose of its use, who used it, and when.

20  
21 d. The process of identifying the exact files, blocks, registry entries, logs, or other  
22 forms of forensic evidence on a cellular telephone that are necessary to draw an accurate  
23 conclusion is a dynamic process. While it is possible to specify in advance the records to be  
24 sought, cellular telephone evidence is not always data that can be merely reviewed by a review  
25 team and passed along to investigators. Whether data stored on one cellular telephone is  
26 evidence may depend on other information stored on that or other storage media and the  
27  
28



1 application of knowledge about how electronic storage media behave. Therefore, contextual  
2 information necessary to understand other evidence also falls within the scope of the warrant.

3 e. Further, in finding evidence of how a cellular telephone was used, the purpose  
4 of its use, who used it, and when, sometimes it is necessary to establish that a particular thing  
5 is not present on a storage medium. For example, the presence or absence of counter-forensic  
6 programs or anti-virus programs (and associated data) may be relevant to establishing the  
7 user's intent.  
8

9  
10 32. *Nature of examination.* Based on the foregoing, and consistent with Rule  
11 41(e)(2)(B), the warrant your Affiant is applying for would permit imaging or otherwise  
12 copying the contents of the SUBJECT CELLULAR TELEPHONE, including the use of  
13 computer-assisted scans.  
14

15 33. *Manner of execution.* Because this warrant seeks only permission to examine a  
16 device already in law enforcement's possession, the execution of this warrant does not involve  
17 the physical intrusion onto a premises. Consequently, I submit there is reasonable cause for  
18 the Court to authorize execution of the warrant at any time in the day or night.  
19


### 20 CONCLUSION

21 34. Based on my training and experience, consultation with other special agents and  
22 law enforcement officers, and all of the facts as set forth in this affidavit, there is sufficient  
23 probable cause to believe a violation of Title 18, U.S.C., § 1111, Murder, has been committed,  
24 and evidence of the crime will be found in the SUBJECT CELLULAR TELEPHONES  
25 described in this Affidavit and Attachment A. I believe that names, nicknames, and/or  
26 telephone numbers of other subjects involved in, and associated with the murder, as well as  
27  
28

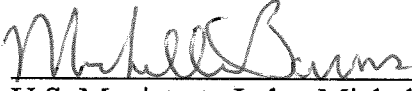
1 data describing the time, date, the duration of incoming and outgoing calls to the cellular  
2 phone, incoming and outgoing text messages, and other electronic data as listed in Attachment  
3 B, will be located in SUBJECT CELLULAR TELEPHONES. Wherefore, your affiant  
4 respectfully requests a warrant be issued authorizing Special Agents to examine, analyze, and  
5 make record of the contents of the information stored in the seized cellular telephones  
6 described in this Affidavit and Attachment A, which is presently in the custody of the FBI.  
7 This affidavit was sworn telephonically before a United States Magistrate Judge legally  
8 authorized to administer an oath for this purpose.  
9  
10

11 I declare under penalty of perjury under the laws of the United States of America that the  
12 foregoing is true and correct.

13 Dated: Jan 3, 2022

  
Special Agent John G. Mikel  
Federal Bureau of Investigation

15  
16 Subscribed and sworn to <sup>telephonically</sup> before me this 4 day of January, 2022.

  
U.S. Magistrate Judge Michelle H. Burns  
District of Arizona